The majority of the court, as well as the dissenting judges, found that the scheme of the testator was to attain substantial equality in the division of his estate among his heirs. The former, however, held that there was a repugnancy between the two clauses in question. One ground on which the court held that E. was entitled to a share in his father's estate was, that, where there is an irreconcilable conflict, the later clause will prevail as being the latest expression of the testator's intention. *In re Bates* (1893) 159 Mass. (N. E.) 252; *Foster v. Stevens* (1906) 146 Mich. 131. This rule applies only where the later clause is as plain and decisive as the first. *Adams v. Massey* (1906) 184 N. Y. 62. The main ground on which the court relied was, that only by allowing E. to take a share, would the testator's intention of equality among his children be carried out. On the other hand, as the minority pointed out, P., the son of E., was provided for in place of E. by the testator in order to bring about his scheme of equality. Furthermore, in view of the second cause, if the testator intended E. to share in the event of the death of a brother, it seems probable that he would have made a provision expressly mentioning E.

J. I. S.

WORKMEN'S COMPENSATION—HEARSAY EVIDENCE—DECLARATIONS OF INJURED PERSON.—CARROLL V. KNICKERBOCKER ICE CO. (1916) 113 N. E. (N. Y.) 507.—The plaintiff, in seeking an award for injuries which resulted in the death of her husband, offered as her sole evidence the declarations made by the deceased to herself and the attending physician shortly before his death. *Held,* that under the Workmen's Compensation Law of 1914, such hearsay evidence was admissible, but insufficient to raise an issue of fact, where opposed by direct testimony of eye-witnesses to the event. Seabury, and Pound, JJ., *dissenting.*

The general rule excluding hearsay evidence has been followed in a long line of cases in the above jurisdiction prior to the Workmen's Compensation Act of 1914. *Waldele v. N. Y. C. & H. R. Ry. Co.* (1884) 95 N. Y. 274; *Greenfield v. People* (1881) 85 N. Y. 88; *People v. Davis* (1874) 56 N. Y. 95. Sec. 68, however, of that act provides that the Workmens' Compensation Commission "shall not be bound by common law, or statutory rules of evidence, or technical, or formal rules of procedure . . . to ascertain the substantial rights of parties." As no jury is employed in such cases it would seem proper that the technical rules of hearsay evidence should be relaxed, even apart from statutory regulation. Accordingly, it is not necessary, as indeed not possible, to bring the declaration in the principal case within the exception admitted on the score of *res gestae.* For the rule as to *res gestae* see *State v. Morrison* (1902) 64 Kan. 669; *Commonwealth v. Werntz* (1894) 161 Pa. St. 591; Wigmore, *Evidence,* Vol. III, sec. 1749. But a distinct and interesting limitation on the probative value to be accorded such evidence, even though admissible, is found in the court's holding as a matter of law that it cannot be considered sufficient to oppose any substantial testimony offered by eye-witnesses to the event. The dissent with much reason, in view of the nature of the tribunal, objects to this dogmatic restriction.

L. W. B.